

**AUG 01 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

VICTOR CAMACHO CALLE;  
ELIZABETH GUERRA HERNANE,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-76116

Agency Nos. A78-648-333  
A26-521-205

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted July 24, 2006\*\*

Before: ALARCÓN, HAWKINS and THOMAS, Circuit Judges.

Victor Camacho Calle and his wife Elizabeth Guerra Hernane, natives and  
citizens of Mexico, petition for review of an order of the Board of Immigration

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\* This disposition is not appropriate for publication and may not be  
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

Appeals (“BIA”) affirming without opinion an immigration judge’s (“IJ”) order denying their applications for cancellation of removal. To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review de novo claims of constitutional violations in immigration proceedings. *See Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the petitioners’ contentions that the IJ’s factual determinations are not supported by substantial evidence and that the petitioners were denied a full and fair hearing because they failed to raise these contentions before the BIA and thereby failed to exhaust their administrative remedies. *See Barron v. Ashcroft*, 358 F.3d 674, 677-78 (9th Cir. 2004) (explaining that this court lacks jurisdiction to review contentions not raised before the agency, including due process contentions that are procedural in nature).

The petitioners’ contention that the agency deprived them of due process by not considering all of the evidence does not state a colorable due process claim. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005) (“traditional abuse of discretion challenges recast as alleged due process violations do not constitute colorable constitutional claims that would invoke our jurisdiction.”) *see*

*also Sanchez-Cruz v. INS*, 255 F.3d 775, 779 (9th Cir. 2001) (holding that the “misapplication of case law” may not be reviewed).

We lack jurisdiction to evaluate whether the BIA’s decision to affirm the IJ’s order without opinion was appropriate, where the denial of relief was based on the IJ’s discretionary decision that the petitioners failed to establish exceptional and extremely unusual hardship. *See Falcon Carriche v. Ashcroft*, 350 F.3d 845, 854 (9th Cir. 2003).

The petitioners’ equal protection challenge is unavailing because they failed to “establish that [their] treatment differed from that of similarly situated persons.” *Dillingham v. INS*, 267 F.3d 996, 1007 (9th Cir. 2001).

Contrary to the petitioners’ contention, the agency’s interpretation of the hardship standard falls within the broad range authorized by the statute. *See Ramirez-Perez v. Ashcroft*, 336 F.3d 1001, 1004-06 (9th Cir. 2003).

**PETITION FOR REVIEW DISMISSED in part; DENIED in part.**